

No.42515-7-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Personal Restraint of Michael Dean Crayne

STATE'S RESPONSE TO PETITION

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Prosecuting Attorney,
Representing the State of
Washington, as Respondent**

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I. ANSWER TO PETITION

The restraint of the petitioner Michael Dean Crayne is lawful, and his petition is time-barred.

II. AUTHORITY FOR RESTRAINT OF PETITIONER

Crayne is being restrained pursuant to the judgment and sentence entered on November 4, 2008, in Cowlitz County Superior Court cause #07-1-01405-2 (conformed copy included pursuant to RAP 16.9, *Appendix A*).

III. MATERIAL DISPUTED QUESTIONS OF FACT

The State disputes the facts as given by Crayne.

IV. PROCEDURAL HISTORY

After entry of his judgment and sentence, Crayne filed a motion to withdraw his guilty plea, along with a motion and declaration for an evidentiary hearing and a sworn affidavit. *See Appendix B.* An evidentiary hearing was held, and the court denied the motion. *See*

Appendix C. Crayne filed a notice of appeal in Division II challenging this denial. *See Appendix D.*

V. ARGUMENT

A. CRAYNE'S PERSONAL RESTRAINT PETITION IS TIME-BARRED UNDER RCW 10.73.090.

Pursuant to RCW 10.73.090(1), no petition for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction. *See Appendix E.* A personal restraint petition is a form of collateral attack. RCW 10.73.090(2). Crayne filed his petition on August 29, 2011, more than two years and nine months after his judgment and sentence became final. This is well beyond the one-year time limit. Crayne does not argue that the judgment and sentence is invalid on its face or that the court rendering it was not of competent jurisdiction. Furthermore, he does not argue that that the petition falls under one of the time-bar exceptions listed in RCW 10.73.100. *See Appendix F.* As such, the petition should be dismissed as time-barred.

**B. OTHER ADEQUATE REMEDIES ARE AVAILABLE TO
CRAYNE.**


The appellate court will only grant relief by a personal restraint petition if other remedies available to the petitioner are inadequate. RAP 16.4; *see Appendix G*. The trial court heard Crayne's motion to withdraw his guilty plea and denied his motion. Crayne has filed a notice of appeal of that ruling. That direct appeal is currently pending in Court of Appeals case number 42469-0-II. As such, the petition should be dismissed.

VI. CONCLUSION

For the reasons stated above, Crayne's personal restraint petition should be dismissed.

Respectfully submitted this 31st day of January, 2012.

SUSAN I. BAUR
Prosecuting Attorney

By: 

MICHELLE L. SHAFFER
WSBA # 29869
Chief Criminal Deputy Prosecuting
Attorney
Representing Respondent

APPENDIX A

FILED
SUPERIOR COURT

2008 NOV -4 P 5:17

COWLITZ COUNTY
RONI A. BOOTH, CLERK

BY *[Signature]*

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL DEAN CRAYNE,

Defendant.

No. 07-1-01405-2

Felony Judgment and Sentence (FJS)

☒ Prison ☐ RCW 9.94A.712 Prison Confinement

☐ Jail One Year or Less ☐ RCW 9.94A.712 Prison Confinement

☐ First-Time Offender

☐ Special Sexual Offender Sentencing Alternative

☐ Special Drug Offender Sentencing Alternative

☒ Clerk's Action Required, para 4.5 (DOSA), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8

SID: WA24213892

If no SID, use DOB:04-17-54

08 9 03 288 1

[Signature]

I. Hearing

1.1 The court conducted a sentencing hearing this date November 4, 2008; the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, in accordance with the proceedings in this case, the court Finds:

2.1 Current Offenses: The defendant is guilty of the following offenses, based upon

☒ guilty plea ☐ jury-verdict ☐ bench trial: ON NOV 4, 2008

Count	Crime	RCW	Date of Crime
I	ASSAULT FIRST DEGREE	9A.36.011(1)(a)	11-05-07
II	VIOLATION NO CONTACT ORDER - DV (GM)	26.50.110 10.99.050 10.99.020(3)	11-22-07
III	VIOLATION NO CONTACT ORDER - DV (GM)	26.50.110 10.99.050 10.99.020(3)	11-23-07

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1.

☐ The burglary in Count _____ involved a theft or intended theft.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.712.

☐ The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____.
RCW 9.94A.533(9).

40

- ☐ The offense was predatory as to Count _____. RCW 9.94A.836.
- ☐ The victim was under 15 years of age at the time of the offense in Count _____. RCW 9.94A.837.
- ☐ The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- ☐ The defendant acted with **sexual motivation** in committing the offense in Count _____. RCW 9.94A.835.
- ☐ This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- ☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- ☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- ☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☒ The crime(s) charged in Count _____ II & III _____ involve(s) **domestic violence**. RCW 10.99.020.
- ☐ The offense in Count _____ was committed in a **county jail or state correctional facility**. RCW 9.94A.533(5).
- ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Sentence	Sentencing Court (County & State)	Date of Crime	A or J Adult, Juv.	Type of Crime
1	NONE					
2						
3						
4						
5						

- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The following prior offenses require that the defendant be sentenced as a **Persistent Offender** (RCW 9.94A.570):

☐ The following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

☐ The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
I	0	XII	93-123 mo	N/A	93-123 mo	CLASS A life
II		GROSS MISDO	0-365 DAYS	N/A	0-365 days	365 DAYS
III		GROSS MISDO	0-365 DAYS	N/A	0-365 days	365 DAYS

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9).

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☒ as follows: 93 months prison, 24-48 mo c/c, substance abuse/mental health/DV eval/tx, no alc/non-prescribed drugs, NCOs.

2.4 ☐ **Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ within ☐ below the standard range for Count(s) _____.

☐ above the standard range for Count(s) _____.

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 **Ability to Pay Legal Financial Obligations.** The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

III. Judgment

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The defendant is found NOT GUILTY of Counts _____.

☐ The court DISMISSES Counts _____.

IV. Sentence and Order

It is Ordered:

4.1a The defendant shall pay to the clerk of this court:

JASS CODE

RTN/RJN	\$ <u>1,066.00</u>	Restitution to: _____ (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)
PCV	\$ <u>500.00</u>	Victim assessment RCW 7.68.035
	\$ <u>100.00</u>	Domestic Violence assessment up to \$100 RCW 10.99.080
CRC	\$ <u>1297.00</u>	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
		Criminal filing fee \$ <u>200.00</u> FRC
		Witness costs \$ _____ WFR
		Sheriff service fees \$ <u>947.00</u> SFR/SFS/SFW/WRF
		Jury demand fee \$ _____ JFR
		Extradition costs \$ _____ EXT
		Incarceration fee \$ <u>150.00</u> JLR
		Other \$ _____
PUB	\$ _____	Fees for court appointed attorney RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs RCW 9.94A.760
FCM/MTH	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA chapter 69.50 RCW, <input type="checkbox"/> VUCSA additional fine deferred due to indigency RCW 69.50.430
CDF/LDI/PCD NTF/SAD/SDI	\$ _____	Drug enforcement fund of Cowlitz County Prosecutor RCW 9.94A.760
MTH	\$ _____	Meth/Amphetamine Clean-up fine \$3000. RCW 69.50.440, 69.50.401(a)(1)(ii).
CLF	\$ _____	Crime lab fee <input type="checkbox"/> suspended due to indigency RCW 43.43.690
	\$ <u>100.00</u>	Felony DNA collection fee <input type="checkbox"/> not imposed due to hardship RCW 43.43.7541
RTN/RJN	\$ _____	Emergency response costs (for incidents resulting in emergency response and conviction of driving, flying or boating under the influence, vehicular assault under the influence, or vehicular homicide under the influence, \$1000 max.) RCW 38.52.430
	\$ _____	Urinalysis cost
	\$ _____	Other costs for: _____
	\$ <u>3063.00</u>	Total RCW 9.94A.760

☐ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☐ shall be set by the prosecutor.

☐ is scheduled for _____.

[] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant

Cause Number

(Amount-\$)

RJN

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 50.00 per month commencing _____ . RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

[] The court finds that the defendant has the means to pay, in addition to the other costs imposed herein, for the cost of incarceration and the defendant is ordered to pay such costs at the rate of \$50 per day, unless another rate is specified here: _____. (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.1b [] **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.2 **DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[] **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 **No Contact:** The defendant shall not have contact with CINDY LEE CRAYNE 02-29-56 AND WESLEY LEO WEST 08-09-60 (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence).

[X] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

The defendant shall not use, own or possess any **firearm** or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120.

[X] The firearm, to wit: #4501, 4502, 4503, 4504, is forfeited to Cowlitz Co. Sheriff's Office a law enforcement agency. 4508, 5801

4.4 **Other:** _____

4.5 Confinement Over One Year. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

93 months on Count I _____ months on Count _____
_____ months on Count _____ months on Count _____
_____ months on Count _____ months on Count _____

- ☒ The confinement time on Count(s) I contain(s) a mandatory minimum term of 5 years, per
RCW 9.94A.540(1)(b) months as
☐ The confinement time on Count _____ includes _____
enhancement for ☐ firearm ☐ deadly weapon ☐ sexual motivation ☐ VUCSA in a protected zone
☐ manufacture of methamphetamine with juvenile present ☐ sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: 93

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) **Confinement.** RCW 9.94A.712 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count _____	minimum term _____	maximum term _____
Count _____	minimum term _____	maximum term _____

- (c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served unless the credit for time served prior to sentencing is specifically set forth here by the court: _____

4.6 Community Placement or Community Custody. The court orders community placement or community custody as follows:

- ☐ **Community Placement:** Count _____ for _____ months;
Count _____ for _____ months; Count _____ for _____ months.

- ☐ **Community Custody** for count(s) _____, sentenced under RCW 9.94A.712, for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

- ☒ **Community Custody:**

Count I for a range from 24 to 48 months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) The defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) The conditions of community placement or community custody include chemical dependency treatment		
c) The defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (8) for sex offenses, submit to electronic monitoring if imposed by DOC; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.720. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

☒ The defendant shall not consume any alcohol. *or drugs not prescribed to him by a physician.*

☒ The defendant shall have no contact with: *Wesley Leo West, Cindy Crayne*

☐ The defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to wit:

☐ The defendant shall not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).

☐ The defendant shall participate in the following crime-related treatment or counseling services:

☒ The defendant shall undergo an evaluation for treatment for ☒ domestic violence ☒ substance abuse ☒ mental health ☐ anger management and fully comply with all recommended treatment.

☐ The defendant shall comply with the following crime-related prohibitions: _____

☐ Other conditions: _____

☐ For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 ☐ **Work Ethic Camp.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp. The court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **Off - Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

4.5 CONFINEMENT - (GROSS MISDEMEANOR: 0 - 365 DAYS / MISDEMEANOR: 0 - 90 DAYS).

The defendant is sentenced as follows:

COUNT II
COUNT III > CONCURRENT

That this sentence shall run concurrent/~~consecutive~~ with the sentence(s) imposed in Count(s) I.
This this sentence shall run concurrent/consecutive with the sentence imposed in Cause Number(s):

(a) CONFINEMENT -

COUNT II: That the defendant serve 365 90 (STRIKE ONE) days in the CUSTODY OF THE DEPARTMENT OF CORRECTIONS with 365 days suspended so long as the defendant complies with the terms of his/her probation as ordered below.

COUNT III: That the defendant serve 365 90 (STRIKE ONE) days in the CUSTODY OF THE DEPARTMENT OF CORRECTIONS with 365 days suspended so long as the defendant complies with the terms of his/her probation as ordered below.

☒ The defendant shall be placed on Probation/Supervision for 24 months (up to 24 if a gross misdemeanor, up to 12 if a misdemeanor) upon the following conditions and shall be monitored by the WASHINGTON STATE DEPARTMENT OF CORRECTIONS, LOCATED AT 1953 7th AVENUE, LONGVIEW, WASHINGTON. (360) 577-4050. DEFENDANT MUST CONTACT WITHIN 48 HOURS OF RELEASE FROM CUSTODY.

☒ THAT THE DEFENDANT COMMIT NO FUTHER VIOLATIONS OF LAW.

☒ THAT THE DEFENDANT ENTER INTO AND SUCCESSFULLY COMPLETE ANY DRUG/ALCOHOL PROGRAM AS RECOMMENDED BY COMMUNITY CORRECTIONS OFFICER, INCLUDING FOLLOWING UP TREATMENT.

☒ THAT THE DEFENDANT SUBMIT TO RANDOM UA'S AND BA'S AS REQUESTED BY HIS/HER CORRECTIONS OFFICER AT HIS/HER OWN EXPENSE;

☒ THAT THE DEFENDANT NOT CONSUME ANY ALCOHOL OR DRUGS not prescribed to him by his physician.

☒ THAT THE DEFENDANT ABIDE BY ALL CONDITIONS OF PROBATIONS.

☒ THAT THE DEFENDANT ENTER INTO AND SUCCESSFULLY COMPLETE STATE CERTIFIED BATTERER'S TREATMENT. and mental health treatment.

☒ THAT THE DEFENDANT MUST HAVE HIS/HER LEGAL FINANCIAL OBLIGATIONS PAID WITHIN 18/24 (CIRCLE ONE) MONTHS. PAYMENTS TO BE MADE AS SET FORTH IN PARAGRAPH 4.1 OF THIS JUDGMENT AND SENTENCE, UNLESS OTHER ARRANGMENTS HAVE BEEN MADE WITH THE COWLITZ COUNTY SUPERIOR COURT COLLECTION DEPUTY.

☐ OTHER:

(b) The defendant shall receive credit for time served prior to sentencing, if that confinement was solely under this cause number. RCW 9.94A.505(6). The time served shall be computed by the jail unless credit for time served prior to sentencing is specifically set forth by the court:

☐ The defendant shall be monitored for the payment of legal financial obligations and report any change of address or employment to the COWLITZ COUNTY SUPERIOR COURT COLLECTIONS DEPUTY, LOCATED AT 312 SW FIRST AVE., KELSO, WASHINGTON and shall call (360)414-5532 to schedule an appointment within 72 hours of release from confinement.

V. Notices and Signatures

- 5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). **You are required to contact the Cowlitz County Collections Deputy, 312 SW First Avenue, Kelso, WA 98626 (360) 414-5532 with any change in address and employment or as directed. Failure to make the required payments or advise of any change in circumstances is a violation of the sentence imposed by the Court and may result in the issuance of a warrant and a penalty of up to 60 days in jail.** The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- ☐ This crime involves a Rape of a Child in which the victim became pregnant. The defendant shall remain under the court's jurisdiction until the defendant has satisfied support obligations under the superior court or administrative order, up to a maximum of twenty-five years following defendant's release from total confinement or twenty-five years subsequent to the entry of the Judgment and Sentence, whichever period is longer.
- 5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 Restitution Hearing.**
☐ I waive any right to be present at any restitution hearing (sign initials): _____.
- 5.5 Community Custody Violation.**
(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.
(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.737(2).
- 5.6 Firearms.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

Cross off or delete if not applicable:

5.7 Sex and Kidnapping Offender Registration. RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register

immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Reporting Requirements for Persons Who Are Risk Level II or III: If you have a fixed residence

and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

8. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

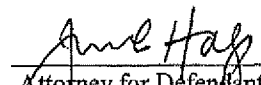
- 5.8 ☐ Count _____ is a felony in the commission of which you used a motor vehicle. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.9 If you are or become subject to court-ordered mental health or chemical dependency treatment, you must notify DOC and you must release your treatment information to DOC for the duration of your incarceration and supervision. RCW 9.94A.562.
- 5.10 IF AN APPEAL IS PROPERLY FILED AND APPEAL BOND POSTED, THE DEFENDANT WILL REPORT TO THE DEPARTMENT OF CORRECTIONS, WHO WILL MONITOR THE DEFENDANT DURING THE PENDENCY OF THE APPEAL, SUBJECT TO ANY CONDITIONS IMPOSED BY DOC AND/OR INCULCATED IN THIS JUDGMENT & SENTENCE AND SPECIFICALLY NOT STAYED BY THE COURT.**
- 5.11 Other: _____

Done in Open Court and in the presence of the defendant this date: November 4, 2008

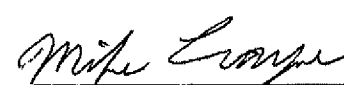

Judge/Print Name: James Warne



(Deputy) Prosecuting Attorney
WSBA No. 29869
Print Name: Shaffer



Attorney for Defendant
WSBA No. 14654
Print Name: John Hays



Defendant

Print Name: Michael Dean Crayne

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: Mike Long

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, **BEVERLY R. LITTLE**, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

Witness my hand and seal of the said Superior Court affixed this date: 1-31-12.

Clerk of the Court of said county and state, by: [Signature], Deputy Clerk

Identification of the Defendant

SID No. WA24213892
(If no SID take fingerprint card for State Patrol)

Date of Birth 04-17-54

FBI No. 91371VC7

Local ID No. _____

PCN No. _____

Other _____

Alias name, DOB: _____

Race:

☐ Asian/Pacific Islander ☐ Black/African-American ☒ Caucasian
☐ Native American ☐ Other: _____

Ethnicity:

☐ Hispanic ☒ Male
☒ Non-Hispanic ☐ Female

Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court, Deputy Clerk, *Sheryl Moul*

Dated: 11-4-08

The defendant's signature: *Mike L...*

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



APPENDIX B

FILED
SUPERIOR COURT

2009 OCT 19 P 1:56

COWLITZ COUNTY
RONI A. BOOTH, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COWLITZ

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL DEAN CRAYNE,

Defendant.

NO. 07-1-01405-2

MOTION TO WITHDRAW
PLEA OF GUILTY

The Defendant herein, MICHAEL DEAN CRAYNE, by and through his attorney, ROBERT M. QUILLIAN, hereby moves the Court, pursuant to CrR 4.2(f), for leave to withdraw her plea of guilty entered herein on November 4, 2008.

This motion is based on the records and files herein, on any declarations or memoranda filed prior to the hearing on these motions, and/or on any testimony presented at an evidentiary hearing on these motions.

DATED this 16th day of October, 2009.

I, BEVERLY R. LITTLE, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 1-31-12

By Robert M. Quillian
ROBERT M. QUILLIAN,
Attorney for Defendant
WSBA #6836

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MOTION TO WITHDRAW PLEA - 1

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ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(360) 352-0166

FILED
SUPERIOR COURT

2009 OCT 19 P 1:56

COWLITZ COUNTY
RONI A. BOOTH, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COWLITZ

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL DEAN CRAYNE,

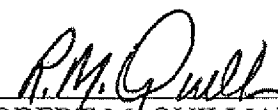
Defendant.

NO. 07-1-01405-2

MOTION AND DECLARATION
FOR EVIDENTIARY HEARING

The Defendant herein, MICHAEL DEAN CRAYNE, by and through his attorney, ROBERT M. QUILLIAN, hereby moves the Court to authorize the scheduling of an evidentiary hearing to develop a record in support of the Defendant's Motion to Withdraw Plea of Guilty, filed concurrently herein. This motion is based on the records and files herein, and on the Sworn Declaration of ROBERT M. QUILLIAN set forth below.

DATED this 16th day of October, 2009.


ROBERT M. QUILLIAN,
Attorney for Defendant
WSBA #6836

MOTION RE: EVIDENTIARY HEARING - 1

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ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(360) 352-0166

1 ROBERT M. QUILLIAN makes the following declaration in accordance with
2 RCW 9A.72.085:
3

4 I am the attorney for the Defendant herein, MICHAEL DEAN CRAYNE, and
5 have filed on his behalf a motion to withdraw his plea of guilty entered on November
6 4, 2008. This motion is based primarily on claims of (1) ineffective assistance of
7 counsel (referring to prior counsel for Mr. Crayne) and (2) concerns about Mr.
8 Crayne's capacity to have fully understood and comprehended the complexities of the
9 issues he was facing, the decisions he had to make, and the full impact and
10 consequences of his plea of guilty herein.. In my discussions with Mr. Crayne
11 concerning his reasons for seeking a plea withdrawal, it is clear to me that many of his
12 concerns arise from the effectiveness of his prior representation, both as to the lack of
13 meaningful communications between Mr. Crayne and his prior counsel, which
14 deprived Mr. Crayne of the ability to make a fully informed, knowing and voluntary
15 decision to plead guilty, and as to the failure of his former counsel to take meaningful
16 steps to investigate the allegations against him, as well as possible defenses and/or
17 issues in mitigation, and to communicate the results of those investigations to the
18 Defendant. A detailed statement from Mr. Crayne as to these matters is filed
19 concurrently herewith.
20

21
22 My experience has been that the most effective way to generate a proper
23 record in matters of this nature is to schedule an evidentiary hearing, where all
24 concerned parties can be subpoenaed, placed under oath, and give sworn testimony.
25
26

1 My experience has also been that courts of this State routinely grant such motions for
2 evidentiary hearings where such allegations are being made.

3 In this specific regard, citation is made to the case of *Moore v. United States*,
4 432 F. 2d 730 (3rd Cir. 1970), which involved an appeal of an order dismissing a post-
5 conviction petition alleging, among other things, ineffective assistance of counsel.

6 The District Court had dismissed the petition without holding an evidentiary hearing
7 on the matter. In reversing and remanding for an evidentiary hearing on the
8 petitioner's claims, the 3rd Circuit stated as follows:

9 We have no doubt that counsel acted in an effective
10 manner as far as the trial judge was able to observe
11 his conduct. But representation involves more than the
12 courtroom conduct of the advocate. The exercise of
13 the utmost skill during the trial is not enough if counsel
14 has neglected the necessary investigation and preparation
15 of the case or failed to interview essential witnesses or to
16 arrange for their attendance. Such omissions of course,
will rarely be visible on the surface of the trial, and to
that extent the impression of a trial judge regarding the
skill and ability of counsel will be incomplete.

17 In the light of petitioner's claim of inadequacy of the
18 preparation for trial as well as of counsel's performance
19 at the trial itself and the seeming confirmation of some
20 of these claims which the record presents, we believe
21 it is not possible to say, as section 2255 requires, that
the files conclusively demonstrate that the claims are
so unfounded that they may be rejected without an
evidentiary hearing.

22 The order of the district court dismissing the petition,
23 therefore, must be reversed and the case remanded for
24 an evidentiary hearing on the adequacy of the legal
services supplied to petitioner by the Defender Asso-
ciation.

25 The instant case is similar to the fact pattern present in the *Moore* case, *supra.*,
26

1 in that the allegations merit further inquiry. The allegations being made by the
2 Defendant Crayne deserve the same type of full evidentiary hearing as was ordered in
3 *Moore* before they can be fully investigated, understood, and ruled upon.

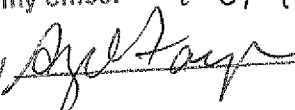
4 For the foregoing reasons, and because there will be no prejudice to the State
5 from the Court granting the relief requested herein, it is respectfully requested that the
6 Court grant the scheduling of an evidentiary hearing, with full subpoena power, in this
7 matter, to be held prior to any ruling on the actual motion to withdraw plea.

8 I declare under penalty of perjury under the laws of the State of Washington
9 that the foregoing is true and correct to the best of my knowledge and belief.

10 SIGNED at Olympia, Washington, this 16th day of October, 2009.

11
12
13 
14 ROBERT M. QUILLIAN

15
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22
23 I, BEVERLY R. LITTLE, Clerk of the
24 Superior Court of Cowlitz County,
25 State of Washington, hereby certify
26 that this instrument is a true and
correct copy of the original on file
in my office. 1-31-12

By  Deputy

MOTION RE: EVIDENTIARY HEARING - 4

ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502

FILED
SUPERIOR COURT

2009 OCT 19 P 1:56

COWLITZ COUNTY
RONI A. BOOTH, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COWLITZ

STATE OF WASHINGTON,

Plaintiff,

vs.

MICHAEL DEAN CRAYNE,

Defendant.

NO. 07-1-01405-2

SWORN DECLARATION OF
MICHAEL DEAN CRAYNE

MICHAEL DEAN CRAYNE makes the following declaration in accordance
with RCW 9A.72.085:

I am the Defendant in this matter, and am making this Sworn Declaration In
support of my Motion to Withdraw my plea of guilty in this matter. My primary
concern, and the reason I feel that I should be allowed to withdraw my plea, has to do
with my retained trial counsel, John Hays. I do not feel that Mr. Hays properly
represented me on a number of levels and that, as a result, I was not provided with
effective assistance of counsel during the pre-trial and plea/sentencing stages of this
case.

Even though I was not in custody pending trial in my case, I only met with Mr.
Hays roughly four times. Each of those meetings was relatively short, and Mr. Hays

SWORN DECLARATION OF
MICHAEL DEAN CRAYNE - 1

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ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(206) 352-0166

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1 seemed quite rushed during every one of our meetings. At no time was I provided
2 with a copy of the discovery materials and statements of witnesses in my case, nor did
3 Mr. Hays ever go over the State's evidence with me in any detail so that I could
4 meaningfully discuss that evidence (and my defense to that evidence) with him. It was
5 only after my plea and sentencing that my sister was able to obtain, from Mr. Hays,
6 the police reports and statements made against me. When she told me what the
7 alleged victims, Leo West and Cindy Crayne, had said in their statements, I was
8 flabbergasted. Had I known the contents of their statements during the pre-trial stages,
9 I could have provided Mr. Hays with a number of examples of their having lied about
10 what happened, and ways to attack their credibility. Mr. Hays had hired an
11 investigator to work on my case, and I met with that investigator one time, at the very
12 start, to give him a statement. I never saw the results of that investigation, and never
13 saw any investigative reports. My family has been unable to obtain those reports from
14 Mr. Hays, despite requests to that effect.
15

16 I have a learning disability, which severely affects my ability to process words,
17 particularly the written word. I need to be able to read papers very slowly, and often
18 several times, before I will truly understand what I am reading. I told Mr. Hays about
19 my disability early on during his representation of me. Nevertheless, our meetings
20 were always rushed. He generally paraphrased what the relevant papers said, and I
21 never felt that I completely understood what he told me or what my various options
22 were.
23

24 I was particularly concerned about the fact that Mr. Hays had not contacted my
25

26 SWORN DECLARATION OF
MICHAEL DEAN CRAYNE - 2

ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(253) 757-0166

1 psychiatrist, Dr. Frank A. Garner, in Kelso. I had begun seeing Dr. Garner relative to
2 my mental health issues a short time before the incident in question, and I continued
3 to see Dr. Garner after the incident. I told Mr. Hays about Dr. Garner and that it was
4 my understanding that Dr. Garner was willing to help with my case. However, at no
5 time did My. Hays contact or speak with Dr. Garner about his evaluation and
6 treatment of me. I have since learned that there may have been a potential "mental"
7 defense in my case, and that Dr. Garner could have provided information which may
8 have been able to establish such a defense. However, I was denied that opportunity
9 because Mr. Hays never contacted Dr. Garner at all.
10

11 I was seen by a psychiatrist that Mr. Hays sent me to, and by another
12 psychiatrist whom I understood to have been appointed by the court. Mr. Hays told
13 me that I could not use the report of the psychiatrist he sent me to at trial because the
14 court-appointed psychiatrist had reached an opposite conclusion, so they canceled
15 each other out.
16

17 As our trial date approached, Mr. Hays told me that my only real choice was to
18 take the plea bargain offered by the State. He told me that I had no chance of winning
19 at trial, and that going to trial would only make things worse. I asked Mr. Hays about
20 the impact or effect that my mental issues might have either at trial or with regard to
21 sentencing. He informed me that such matters could not be a defense at trial, and that
22 the judge could not legally consider such matters at the time of sentencing. I have
23 since been told that such mental health issues could potentially be either a viable
24 defense at trial or could, at the very least constitute mitigating factors at the time of
25

26 SWORN DECLARATION OF
MICHAEL DEAN CRAYNE - 3

ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(360) 352-0166

1 sentencing. Nonetheless, they were never raised in any way by Mr. Hays. Had I
2 known then what I know now about the potential impact of my mental health issues
3 on both trial and sentencing, I would not have pleaded guilty, and I would have
4 elected to proceed to trial.

5 I also have severe physical issues concerning an old back injury, which has
6 never been successfully treated, and which causes me constant and excruciating pain.
7 Mr. Hays also told me that, because of my physical condition, I would be placed in a
8 Department of Corrections Hospital Unit to serve my sentence. I have since learned
9 that there really are no such units for long term residency, and I have been placed in
10 the normal prison population, with very little provided (either in terms of medication
11 or physical tools) to assist me and alleviate my back pain in any way.

13 Simply put, I feel that Mr. Hays did not properly investigate my case and
14 discuss the evidence with me in a meaningful way. My meetings with him were short
15 in duration and rushed, and I did not ever really understand the many things he was
16 telling me because of my learning disability. Several of the things he told me in order
17 to convince me to plead guilty have turned out to be not true, particularly with regard
18 to the potential impact of my mental illness issues on the case and on sentencing. I
19 was told by Mr. Hays that a judge could, under no circumstances, give me a sentence
20 of less than seven years, regardless of what happened at trial. Thus, Mr. Hays told me
21 that since the plea bargain was for seven years, I had absolutely nothing to gain by
22 going to trial, and that I should therefore take the plea bargain. I believe that this was
23 a misrepresentation in an attempt to get me to plead guilty, and that a sentence of less
24
25

26 SWORN DECLARATION OF
MICHAEL DEAN CRAYNE - 4

ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(206) 352-0166

1 than seven years, particularly in view of my mental issues, was certainly a real and
2 valid possibility. It was a risk I was then and am now willing to take.

3 Though I understand that a withdrawal of my plea would potentially place me
4 in greater jeopardy than where I now stand (i.e. if I went to trial and were convicted as
5 originally charged), it is my desire, for the reasons set forth herein, to withdraw my
6 plea and proceed to trial in this case.

7 I declare under penalty of perjury under the laws of the State of Washington
8 that the foregoing is true and correct to the best of my knowledge and belief.

9
10 SIGNED at Aberdeen, Washington, this 21st day of September, 2009.

11
12 
13 MICHAEL DEAN CRAYNE

14
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21
22 I, BEVERLY R. LITTLE, Clerk of the
23 Superior Court of Cowlitz County,
24 State of Washington, hereby certify
25 that this instrument is a true and
26 correct copy of the original on file
in my office. 1-31-12

By , Deputy

ROBERT M. QUILLIAN
Attorney at Law
2633-A PARKMONT LANE S.W.
Olympia, Washington 98502
(206) 357-0166

SWORN DECLARATION OF
MICHAEL DEAN CRAYNE - 5

APPENDIX C

FILED
SUPERIOR COURT

2011 AUG 30 A 9:33

COWLITZ COUNTY
BEVERLY R. LITTLE, CLERK

BY _____



SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

MICHAEL DEAN CRAYNE,

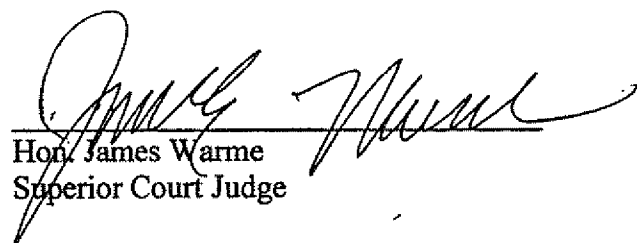
Defendant.

No. 07-1-01405-2

**ORDER ON DEFENDANT'S
MOTION TO WITHDRAW
GUILTY PLEA**

This matter having come before this court for hearing on October 28, 2010; April 15, 2001; and April 29, 2011, on the defendant's motion to withdraw his guilty plea in this matter, this court hereby denies the defendant's motion.

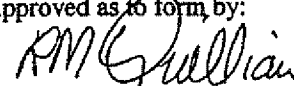
DATED THIS 30 day of August, 2011, *nunc pro tunc* April 29, 2011.


Hon. James Warne
Superior Court Judge

Presented by:


MICHELLE SHAFFER/WSBA#29869
Chief Criminal Deputy Prosecuting Attorney

Approved as to form by:


ROBERT QUILLIAN/WSBA#6836
Attorney for Defendant

I, BEVERLY R. LITTLE, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 1-31-12

By , Deputy

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APPENDIX D

FILED
SUPERIOR COURT

2011 MAY 31 P 4:36

COWLITZ COUNTY
BEVERLY R. LITTLE, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COWLITZ

STATE OF WASHINGTON,

Plaintiff,

VS.

MICHAEL DEAN CRAYNE,

Defendant.

NO. 07-1-01405-2

NOTICE OF APPEAL TO
COURT OF APPEALS

[Clerk's Action Required]

PLEASE TAKE NOTICE that the DEFENDANT, MICHAEL DEAN CRAYNE,
seeks review by the designated appellate court of the COURT OF
APPEALS, DIVISION II, denying the defendant's Motion To
Withdraw Guilty Plea, on April 26, 2011.

DATED: May 24, 2011

Michael Crayne
/S/ MICHAEL DEAN CRAYNE
DEFENDANT
STAFFORD CREEK CORR. CTR.,
191 CONSTANTINE WAY,
ABERDEEN, WA., 98520

I, BEVERLY R. LITTLE, Clerk of the
Superior Court of Cowlitz County,
State of Washington, hereby certify
that this instrument is a true and
correct copy of the original on file
in my office. 1-31-12

By Deputy Deputy

NOTICE OF APPEAL - 1 of 1
NO. 07-1-01405-2
STATE V. CRAYNE

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APPENDIX E

RCW 10.73.090. Collateral attack--One year time limit

(1) No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction.

(2) For the purposes of this section, "collateral attack" means any form of postconviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw guilty plea, a motion for a new trial, and a motion to arrest judgment.

(3) For the purposes of this section, a judgment becomes final on the last of the following dates:

(a) The date it is filed with the clerk of the trial court;

(b) The date that an appellate court issues its mandate disposing of a timely direct appeal from the conviction; or

(c) The date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming the conviction on direct appeal. The filing of a motion to reconsider denial of certiorari does not prevent a judgment from becoming final.

APPENDIX F

RCW 10.73.100. Collateral attack--When one year limit not applicable

The time limit specified in RCW 10.73.090 does not apply to a petition or motion that is based solely on one or more of the following grounds:

- (1) Newly discovered evidence, if the defendant acted with reasonable diligence in discovering the evidence and filing the petition or motion;
- (2) The statute that the defendant was convicted of violating was unconstitutional on its face or as applied to the defendant's conduct;
- (3) The conviction was barred by double jeopardy under Amendment V of the United States Constitution or Article I, section 9 of the state Constitution;
- (4) The defendant pled not guilty and the evidence introduced at trial was insufficient to support the conviction;
- (5) The sentence imposed was in excess of the court's jurisdiction; or
- (6) There has been a significant change in the law, whether substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal or civil proceeding instituted by the state or local government, and either the legislature has expressly provided that the change in the law is to be applied retroactively, or a court, in interpreting a change in the law that lacks express legislative intent regarding retroactive application, determines that sufficient reasons exist to require retroactive application of the changed legal standard.

APPENDIX G

RAP 16.4 PERSONAL RESTRAINT PETITION--GROUNDS FOR REMEDY

(a) Generally. Except as restricted by section (d), the appellate court will grant appropriate relief to a petitioner if the petitioner is under a “restraint” as defined in section (b) and the petitioner's restraint is unlawful for one or more of the reasons defined in section (c).

(b) Restraint. A petitioner is under a “restraint” if the petitioner has limited freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to imminent confinement, or the petitioner is under some other disability resulting from a judgment or sentence in a criminal case.

(c) Unlawful Nature of Restraint. The restraint must be unlawful for one or more of the following reasons:

- (1) The decision in a civil or criminal proceeding was entered without jurisdiction over the person of the petitioner or the subject matter; or
- (2) The conviction was obtained or the sentence or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government was imposed or entered in violation of the Constitution of the United States or the Constitution or laws of the State of Washington; or
- (3) Material facts exist which have not been previously presented and heard, which in the interest of justice require vacation of the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government; or
- (4) There has been a significant change in the law, whether substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state

or local government, and sufficient reasons exist to require retroactive application of the changed legal standard; or

(5) Other grounds exist for a collateral attack upon a judgment in a criminal proceeding or civil proceeding instituted by the state or local government; or

(6) The conditions or manner of the restraint of petitioner are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington; or

(7) Other grounds exist to challenge the legality of the restraint of petitioner.

(d) Restrictions. The appellate court will only grant relief by a personal restraint petition if other remedies which may be available to petitioner are inadequate under the circumstances and if such relief may be granted under RCW 10.73.090, .100, and .130. No more than one petition for similar relief on behalf of the same petitioner will be entertained without good cause shown.

**COURT OF APPEALS, STATE OF WASHINGTON
DIVISION II**

In re the Personal Restraint Petition of)	NO. 42515-7-II
)	Cowlitz County No.
)	07-1-01405-2
)	
)	CERTIFICATE OF
)	MAILING
MICHEAL DEAN CRAYNE,)	
)	
Petitioner.)	
<hr/>)	

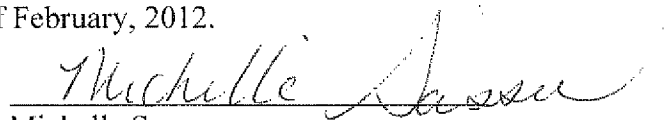
I, Michelle Sasser, certify and declare:

That on the 1st day of February, 2012, I deposited in the mails
of the United States Postal Service, first class mail, a properly stamped
and address envelope, containing a State's Response to Petition addressed
to the following party and sent to the **Court of Appeals via e-mail:**

MICHAEL DEAN CRAYNE
DOC # 325024
STAFFORD CREEK CORRECTION CENTER
191 CONSTANTINE WAY
ABERDEEN, WA 98520

I certify under penalty of perjury pursuant to the laws of the State
of Washington that the foregoing is true and correct.

Dated this 1st day of February, 2012.


Michelle Sasser

COWLITZ COUNTY PROSECUTOR

February 01, 2012 - 10:04 AM

Transmittal Letter

Document Uploaded: prp2-425157-Response.pdf

Case Name: State of Washington v. Michael Dean Crayne

Court of Appeals Case Number: 42515-7

Is this a Personal Restraint Petition? ☒ Yes ☐ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

Brief: ____

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

Hearing Date(s): ____

Personal Restraint Petition (PRP)

☒ Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Other: ____

Sender Name: Michelle Sasser - Email: sasserm@co.cowlitz.wa.us